

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 93-740-C - ORDER NO. 93-1112 ✓
DECEMBER 2, 1993

IN RE: Request of Opus Correctional, Inc. for)	ORDER
Emergency Authorization Concerning the)	GRANTING
Provision of Collect Only Calling from)	TEMPORARY
Federal Prisons.)	PERMISSION

This matter comes before the Public Service Commission of South Carolina (the Commission) on the November 29, 1993 request on behalf of Opus Correctional, Inc. (Opus) requesting that this Commission issue Opus emergency authority to provide intrastate collect-only telephone service to inmates of the Federal Bureau of Prisons' (Bureau's) correctional facility in Estill, South Carolina.

According to the November 29, 1993 letter, Opus contracted with the Bureau to provide and install the hardware, software and support systems for a state-of-the-art inmate telephone system which enabled the Bureau to provide direct-dial telephone service to inmates at each of the Bureau's correctional facilities nationwide. The United States District Court for the Eastern District of Kentucky, however, has issued a temporary injunction (Order) requiring the Bureau to make collect calling capability available to inmates at all Bureau correctional facilities nationwide no later than December 12, 1993. Opus states that, to

comply with the Order, and to avoid being held in contempt of a Federal Court, the Bureau has requested that Opus acquire from regulatory commissions in each state in which the Bureau maintains a facility the authority necessary to ensure that inmates are able to complete collect-only calls. Opus alleges that it intends to file with the Commission a formal application for a Certificate of Public Convenience and Necessity, in which Opus, as an agent for the Federal Bureau of Prisons, will demonstrate its technical, managerial and financial ability to provide the requested service.

Opus alleges that the requested emergency authority is in the public interest. First, Opus' contract with the Bureau provides that in each state, Opus shall charge no more than dominant carrier rates. Opus states for intrastate calls South Carolina consumers will be charged no more than rates which have already been determined by the Commission to be lawful and just. Second, according to Opus, the Commission has already concluded in Order No. 91-122 in Docket No. 90-305-C, that collect-only service in confinement facilities is in the public interest.

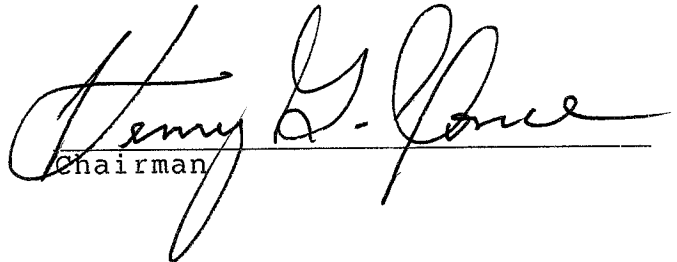
The Commission has examined the Order issued by the United States District Court for the Eastern District of Kentucky in the case of Conchita Washington, et. al. v. Janet Reno, et. al., and believes that, in the context of a temporary order, the Federal Court has ordered the Bureau to provide collect-only service to inmates by December 12, 1993. Opus, as the Bureau's agent, therefore, requests that the Commission aid it in compliance with the Federal Court Order.

Because of the matters stated above, i.e. the Court Order and the immediate need for the service, the Commission believes that it should grant emergency temporary permission to Opus Correctional, Inc. to provide collect-only dialing from the federal facility in Estill, South Carolina, so as to be in compliance with the Federal Court Order. This emergency temporary permission, however, shall be conditional in several respects. First, Opus is required to file within ten (10) days from its receipt of this Order an Application for a Certificate of Public Convenience and Necessity. Further, during the period covered by this Order, Opus shall not be allowed to charge an amount in excess of the rate charged by the local exchange carrier (LEC) in whose area it is located for local calls. In addition, for intrastate long distance calls, the rate for said calls shall not exceed those rates charged by American Telephone & Telegraph (AT&T). Also, should the temporary injunction issued by the District Court be terminated, this Commission holds that the temporary permission granted by this Order shall be terminated simultaneously with the temporary injunction. Further, should Opus be granted a Certificate of Public Convenience and Necessity by this Commission, the authority granted by this Order shall then terminate, even if the temporary injunction issued by the Court is still in effect. It should be noted that, by issuing this Order granting temporary permission, the Commission is doing so only because of the unique circumstances of this case. The Commission holds that this Order should not be taken by other potential

providers as precedent for the Commission's ability or authority to issue Orders granting temporary authority in other situations. This Order shall remain in full force and effect until further Order of the Commission.

IT IS SO ORDERED.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)